IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.194 OF 1998

The Commissioner of Income-tax,
Bombay City - V, Bombay .. Applicant.
V/s.
M/s.Antifriction Bearings
Corporation Ltd., Bombay .. Respondent.

Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether in the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount of Rs.20 lakhs being the subsidy received by the assessee under subsidy scheme from Gujarat Government could not be taken into consideration to find out the 'actual cost' as defined in section 43(1) of the I.T. Act, 1961 for the purpose of computing depreciation and investment allowance on the plant and machinery ?
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> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in computing the disallowance in respect of amount paid to employee-drectors, provisions of section 40(c) and not those of section 40A(5) of the Act would be applicable ?

2. So far as question No.1 is concerned, the learned counsel for the Revenue fairly states that

the issue raised has already been answered by the Apex Court in the case of **CIT V/s. P.J. Chemicals Ltd. [(1994) 210 ITR 830]** in favour of the assessee against the revenue.

3. As regards question No.2, the learned counsel for the Revenue fairly states that the issue has already been answered by the Division Bench of this Court in the case of **CIT V/s. Hico Products P Ltd. [(1993) 201 ITR 567 (Bom)]** in favour of the assessee and against the revenue.

4. In this view of the matter, both the questions stand answered in affirmative for the reasons stated in the cases cited supra.

5. Reference, accordingly, stands disposed of with no order as to costs.

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